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# QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT

Written statement submitted by International Educational Development Inc., a non-governmental organization on the Roster

The Secretary-General has received the following communication, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[10 February 1992]

## I. THE UNITED STATES OF AMERICA AND HAITIAN ASYLUM SEEKERS

1. A situation requiring urgent action by the Commission on Human Rights involves the seizure or capture on the high seas of vessels carrying asylum-seekers from Haiti by the United States Government. Regardless by what sanitized name such action may be called - "interdiction" is the term used by the United States - high seas capture is piracy. Piracy is an international crime and its prohibition was one of the earliest recognized jus cogens norms. The United States should be most strongly condemned for this piracy and every effort should be made to stop its occurrence.

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2. The United States compounds its gross violation of human rights against Haitian people fleeing the repressive, illegal regime in Haiti by holding them in detention and then forcibly returning to Haiti those it apprehends. Blithely maintaining that Haitians really seek economic betterment rather than safety from the violent regime, the United States even fail to allow the majority of the Haitians to make their claims under international and domestic refugee norms. Rather, the United States temporarily detains them in Cuba, and then summarily sends them home. It provides the Haitian regime with names and particulars of the returnees. A number of the returnees have once again fled Haiti for their lives, only to be caught again by the United States.

3. The Commission on Human Rights should, by resolution, condemn these violations of the United States regarding Haitian refugees, and should investigate whether they are, as the evidence to date strongly indicates, racially motivated. The Commission should also recognize the laudable efforts made by the Organization of American States to seek an acceptable resolution to this crisis of democracy and human rights and to urge all countries, especially the United States, to fully cooperate with it.

## II. DETENTION IN MYANMAR (BURMA)

4. International Educational Development is proud to represent Noble Peace Prize winner Aung San Suu Kyi before the Working Group on Detention. Her case was submitted to that body on 10 December 1991. However, as Aung San Suu Kyi would be the first to point out, many other Burmese are currently illegally detained by the current regime which remains in power even though soundly defeated in elections held in May 1990. The illegitimate regime refuses to allow international investigation of their physical and legal condition. Quite frankly, there are so many cases of alleged arbitrary detention and severe mistreatment that they alone would inundate the Working Group on Detention and the Special Rapporteur on Torture. The United Nations must take decisive and public action regarding Burma.

## III. JAPAN'S DAIYO-KANGOKU (POLICE CELL) DETENTION AND VIOLATION OF RIGHTS TO COUNSEL

5. International Educational Development again draws to the attention of the Commission on Human Rights the situation of gross violations of human rights inherent in the Japanese criminal justice system, in particular because of the station house (daiyo-kangoku) detention and almost non-existent right to counsel. As we have reported before, Japanese criminal suspects are held for up to 23 days (or until indictment) under law and up to several hundred days in practice in police station cells, during which time most are denied counsel. Indigent suspects do not have a right to counsel until after indictment, and even if counsel can be paid for, access of counsel is often so severely limited as to be meaningless. Details of these practices are set out in our report, prepared with the International Federation on Human Rights, which we circulated in past years.

6. We menion again the illustrative cases of Mr. Yaron Sachs, an Israeli citizen and Mr. Iwao Hakamada. We were pleased to present a dossier amicus curae in Mr. Sachs' case at the Tokyo High Court, and we have closely

followed his case and the ongoing violations of his rights. A prominent Japanese human rights group headed by Ms. Chisako Tesuka, herself freed following false accusations, arrest and severe mistreatment, has supported Mr. Sachs in his efforts to obtain justice. Mr. Hakamada's case has been amply documented by us at the Sub-Commission on Prevention of Discrimination and Protection of Minorities and we have carefully prepared reports of his situation thanks to the Association to Save Innocent Prisoner, Former Boxer Iwao Hakamada.

7. We now bring you two additional cases which illustrate the system-wide problems: Mr. Donald E. Wilson and Mr. Edwin Emeka Nwachukwa, both American citizens of African background. Mr. Donald Wilson was so severely beaten in daiyo-kangoku during interrogations with no counsel that he suffers head and neck pains, blurred vision, numbness and chills. An X-ray indicates a herniated neck vertebrae. Mr. Wilson has been visited by a journalist for the Los Angeles Times and Americans from a church group who verified his inhumane treatment. Members of the United States Congress have sought to no avail to seek assistance for him. Mr. Edwin Emeka Nwachukwa's case was first brought to our attention by a medical doctor from Germany who presented indications of abnormal treatment and racial discrimination.

8. Many Japanese lawyers such as Ms. Futaba Igarashi has fought valiantly for years to abolish the daiyo-kangoku system. We are exceptionally pleased that our 1988 report is now joined by two excellent reports of the Japanese Federation of Bar Associations: "A Report on the Application and Practice in Japan of the International Covenant on Civil and Political Rights" (22 November 1991) which focuses especially on these criminal justice system violations, and "Realities of Police Detention in Japan" (21 November 1991) which carefully documents three representative cases.

9. International Educational Development sincerely hopes that the Commission on Human Rights acts in a meaningful way to these serious system-wide violations of criminal justice rights. Pressure should be brought on Japan to introduce long-overdue reforms. We also urge the Governments of the United States, Israel and any other country with nationals in Japanese jails to come to their aid.

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